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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,305	03/10/2004	Gennadi Finkelshtain	P25032	9110
7055	7590	03/12/2007	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			ALEJANDRO, RAYMOND	
			ART UNIT	PAPER NUMBER
			1745	
SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE		DELIVERY MODE	
31 DAYS	03/12/2007		ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 31 DAYS from 03/12/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gpatent@gpatent.com
pto@gpatent.com

Office Action Summary	Application No.	Applicant(s)	
	10/796,305	FINKELSHTAIN ET AL.	
	Examiner	Art Unit	
	Raymond Alejandro	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 March 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-117 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 1-117 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-40 and 93-101, drawn to fuel cells comprising sealable features or a cartridge, classified in class 429, subclass 35.
 - II. Claims 41-62, drawn to a cartridge for refreshing the fuel cell, classified in class 220, subclass 500 or 507.
 - III. Claims 63-73, drawn to a packaged combination of a plurality of cartridges, classified in class 220, subclass 23.83.
 - IV. Claims 74-82, drawn to a method of supplying electrical energy to a device, classified in class 429, subclass 13.
 - V. Claims 83-90, drawn to the combination of a device and a fuel cell, classified in class 429, subclass 12.
 - VI. Claims 91-92, drawn to a method of refreshing a self-contained fuel cell, classified in class 429, subclass 13.
 - VII. Claim 102-113, drawn to a fluid replacement system for replacing a spent liquid, classified in class 137, subclass 583, or 561 R or 560 or 255 or 266.
 - VIII. Claim 114-117, drawn to a liquid replacement method, classified in class 137, subclass 2 or 15.18.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II or I and III are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed

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does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combinations of Group I encompasses different subcombinations themselves (i.e. sealable openings or a cartridge removable connected to the fuel cell itself). Further, the combination of Claims 1 or 93 do not require the specific cartridge of Group II or the specifics of Group III for patentability. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing a suitable receptacle or container for holding liquid.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application; such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Inventions IV and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process

as claimed can be practiced by another and materially different apparatus or by hand, the method of supplying electrical energy can be practiced by a fuel cell having the specific sealing features, or a fuel cell having the specific cartridge or a fuel cell comprising the specific plurality of cartridges or a fuel cell without fuel cartridge(s) per se.

4. Inventions I and V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination of Group V encompasses only one subcombination (i.e. the substantially liquid tight not connected to an external fuel delivery system. Further, in this case, the combination of claim 83 does not require the specific fuel cell subcombination including a removable cartridge of claim 93 for patentability. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing an electrochemical cell device.

5. Inventions VI and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus or by hand, the method of supplying electrical energy can be practiced by a fuel cell having the specific sealing features,

or a fuel cell having the specific cartridge or a fuel cell comprising the specific plurality of cartridges or a fuel cell without fuel cartridge(s) per se.

6. Inventions I and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combinations of Group I do not require the specific port/storage chamber arrangement of the subcombinations of Group VII for patentability. Additionally, the subcombinations of Group VII include two different subcombinations, one using an absorbent material and the other not using such a material different subcombinations themselves. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing a suitable fluid handling system.

7. Inventions I and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects. For instance, the invention of Group I is aimed at a fuel cell which is a device for electrochemical generation of energy while the invention of Group VIII is directed to a method for replacing liquid.

8. Inventions III and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require

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the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination of Group III requires first fuel cartridge and a second electrolyte cartridge while the subcombination of Group II comprises a single (compartmented) cartridge having a first fuel cell chamber and a second electrolyte chamber. The subcombination has separate utility such as providing compartmented (divided) cartridge for holding more than one different liquids.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

9. Inventions II and IV or II and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects. For instance, the invention of Group II is directed to cartridge for holding liquids while the invention of either Groups IV or VI

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are geared towards a method of supplying electrical energy or a method of refreshing a fuel cell, respectively.

10. Inventions V and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination of Group V encompasses a different subcombination itself (i.e. sealable openings or a cartridge removable connected to the fuel cell itself). Further, the fuel cells of claims 1 or 93 do not require the specific cartridge of Group II for patentability. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing a suitable receptacle or container for holding liquid.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

11. Inventions II and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as providing a suitable container or receptacle for holding liquids; and the subcombination of Group VII is a fluid replacement system for handling fluids. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

12. Inventions II and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects, for example, the invention of Group II is a container or receptacle (cartridge) for holding liquids whereas the invention of Group VIII is directed to a method for replacing liquid.

13. Inventions III and IV or III and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs,

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modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects. For instance, the invention of Group III is directed to packaged combination of plural cartridges for holding liquids while the invention of either Groups IV or VI are geared towards a method of supplying electrical energy or a method of refreshing a fuel cell, respectively.

14. Inventions V and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination of Group V encompasses a different subcombination itself (i.e. sealable openings or a cartridge removable connected to the fuel cell itself or single cartridge). Further, the fuel cells of claims 1 or 93 do not require the specific cartridge of Group III for patentability. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing a suitable receptacle or container for holding liquid.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable

in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

15. Inventions III and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination III has separate utility such as providing a suitable container or receptacle for holding liquids; and the subcombination of Group VII is a fluid replacement system for handling fluids. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

16. Inventions III and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects, for example, the invention of Group III is a container or receptacle (cartridge) for holding liquids whereas the invention of Group VIII is directed to a method for replacing liquid.

17. Inventions IV and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus or by hand, the method of supplying electrical energy can be practiced by a fuel cell having the specific sealing features, or a fuel cell having the specific cartridge or a fuel cell comprising the specific plurality of cartridges or a fuel cell without fuel cartridge(s) per se.

18. Inventions IV and VI or IV and VIII are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are not capable of being used together as one process encompasses supplying electrical energy while other are aimed at refreshing/adding or replacing fuel to/from a fuel cell. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

19. Inventions IV and VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects, for instance, the invention of Group IV

encompasses a process for supplying electrical energy whereas the invention of Group VII is directed to a fluid replacement system for handling fluid.

20. Inventions VI and V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus or by hand, the method of supplying electrical energy can be practiced by a fuel cell having the specific sealing features, or a fuel cell having the specific cartridge or a fuel cell comprising the specific plurality of cartridges or a fuel cell without fuel cartridge(s) per se.

21. Inventions V and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combinations of Group V do not require the specific port/storage chamber arrangement of the subcombinations of Group VII for patentability. Additionally, the subcombinations of Group VII include two different subcombinations, one using an absorbent material and the other not using such a material different subcombinations themselves. This provides evidence to support that the subject matter of the subcombination is/are not essential to the patentability of the fuel cell combinations. The subcombination has separate utility such as providing a suitable fluid handling system.

22. Inventions V and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects. For instance, the invention of Group V is aimed at a combination including a fuel cell which is a device for electrochemical generation of energy while the invention of Group VIII is directed to a method for replacing liquid.

23. Inventions VI and VII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, modes of operation, and effects, for instance, the invention of Group VI encompasses a method for refreshing a fuel cell whereas the invention of Group VII is directed to a fluid replacement system for handling fluid.

24. Inventions VI and VIII are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the invention of Group VI encompasses a method for refreshing a fuel cell while the method of Group VIII is a method for replacing a liquid. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

25. Inventions VIII and VII are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced

by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus or by hand, for example, the process can be practiced by the materially different system such as the fluid replacement system of claim 102 or port arrangement comprising an absorbent material of claim 113.

26. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

27. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

28. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

29. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Alejandro whose telephone number is (571) 272-1282. The examiner can normally be reached on Monday-Thursday (8:00 am - 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raymond Alejandro
Primary Examiner
Art Unit 1745



RAYMOND ALEJANDRO
PRIMARY EXAMINER